

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 28, 2008. At the time of the Office Action, Claims 1-20 were pending in this Application. Claims 1-9 and 12-20 were rejected. Claims 10 and 11 were objected to. Claims 1, 6, 14, 19, and 20 have been amended to further define various features of Applicants' invention. Claims 2, 3, 5, 10, 11, and 18 have been cancelled without prejudice or disclaimer. Applicant respectfully requests reconsideration and favorable action in this case.

Objections under 37 CFR 1.83(a)

Examiner has objected to the drawings for not showing every feature of the invention specified in the Claims under 37 CFR 1.83(a). Applicants has deleted claims 2, 3, 10 and 11 reciting the poppet valves, solenoid and electronic connector.

Rejections under 35 U.S.C. § 102

Claims 1, 4, 7, 8, 9, 12, 14, 17, and 20 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,179,917 issued to Hokazomo et al. ("*Hokazomo*"). Applicants respectfully traverse and submit *Hokazomo* does not teach all of the elements of the claimed embodiment of the invention.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant respectfully submits that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Applicant submits a new set of claims replacing, without prejudice, the current set of claims. The independent claims 1, 14, and 20 now specify that the first and second induction

pipe bodies 1 and 2 are **one-piece** induction pipe bodies. Basis for this amendment can be found throughout the whole application as filed, especially, [0009], [0018], [0020], [0021], and Figures 1-3. Additionally, the subject matter of dependent claims 5 and 18 has been added to the independent claims respectively. Thus, no new matter has been added. A marked-up version of the new set of claims is enclosed, from which the Examiner may take the individual amendments made.

Hokazono fails to disclose at least a first and a second **one-piece** induction pipe body and a flange joint between the two induction pipe bodies comprising **an intermediate plate** with through holes corresponding to the individual induction pipes which can be attached to the second induction pipe body by screw connections such that the intermediate plate holds the pulse charging valves with their actuators in the induction pipe sections of the second induction pipe body. This is naturally so, because *Hokazono* addresses how to increase the torque effect of an inertia supercharging in a high engine speed condition. *Hokazono*, column 1, lines 55-61. Contrary hereto, the pending application addresses how to optimally integrate pulse charging valves in an induction pipe. Description of application, [0006].

Since *Hokazono* fails to disclose at least a first and a second one-piece induction pipe body and a flange joint between the two induction pipe bodies comprising an intermediate plate with through holes corresponding to the individual induction pipes which can be attached to the second induction pipe body by screw connections such that the intermediate plate holds the pulse charging valves with their actuators in the induction pipe sections of the second induction pipe body, it is respectfully requested that the rejection under 35 U.S.C. §102 is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102, if necessary.

Rejections under 35 U.S.C. §103

Claims 1-9, 12, and 14-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over German Patent DE 10137828 filed by Peter Kreuter ("*Kreuter*") in view of

Japanese Patent JP 58160512 filed by Asaka Uratarou et al. (“*Uratarou*”). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

Claim 13 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Kreuter* in view of *Uratarou* as applied to Claim 1 above, and further in view of U.S. Patent 4,612,903 issued to Urabe et al. (“*Urabe*”). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int’l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The rejection under 35 U.S.C. §103(a) is respectfully traversed because of the amended set of claims filed. *Kreuter* fails to disclose at least a first and a second **one-piece** induction pipe body and a flange joint between the two induction pipe bodies comprising **an intermediate plate** with through holes corresponding to the individual induction pipes which can be attached to the second induction pipe body by screw connections such that the intermediate plate holds the pulse charging valves with their actuators in the induction pipe sections of the second induction pipe body. This is naturally so because *Kreuter* is only

concerned with the properties of the valve 26 and not how to optimally integrate pulse charging valves in an induction pipe.

Turning to *Uratarou*, the Applicant can only refer to the embodiment illustrated in the Figures and the Abstract in the English language. It can not be taken from the Figures or the Abstract that the induction module or pipe is made of a first and second **one-piece** induction pipe bodies. Rather, the Abstract and the Figures (especially Figure 5, bottom left hand side) disclose that the induction module or pipe consists out of individual pipes and that a valve is arranged inside each individual pipe.

Additionally, the independent claims recites that a flange joint between the two induction pipe bodies comprising **an intermediate plate** with through holes corresponding to the individual induction pipes which can be attached to the second induction pipe body by screw connections such that **the intermediate plate holds the pulse charging valves** with their actuators in the induction pipe sections of the second induction pipe body. Contrary hereto, *Uratarou* illustrates that the valve is clamped directly between the two pipes 10a and 10b and not through an intermediate plate. *Uratarou*, Figure 3.

Since *Kreuter* and *Uratarou* fail to teach at least a first and a second one-piece induction pipe body and a flange joint between the two induction pipe bodies comprising an intermediate plate with through holes corresponding to the individual induction pipes which can be attached to the second induction pipe body by screw connections such that the intermediate plate holds the pulse charging valves with their actuators in the induction pipe sections of the second induction pipe body, it is respectfully requested that the rejection under 35 U.S.C. §103(a) is withdrawn. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Allowable Subject Matter

Applicants appreciate Examiner's consideration and indication that Claims 10 and 11 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. However, Applicants believes that the new set of Claims is in condition for allowance and requests favorable action.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants respectfully submit a Petition for Three-Month Extension of Time. The Commissioner is authorized to charge the fee of \$1,110.00 required to Deposit Account 50-2148 in order to effectuate this filing.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert
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Date: November 26, 2008

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